

REMARKS

In connection with the Office Action dated May 3, 2005, Applicant acknowledges with appreciation the finding by the Examiner that claims 24-27 are allowable.

The Examiner, however, has rejected claims 1-23 and 28-38 under 35 U.S.C. § 102(b) as being anticipated by Desai et al. (U.S. Patent No. 6,034,746).

In this response, claims 1, 11, 19 and 28 have been amended and new claims 39-42 have been added. However, no new matter has been added. Upon entry of the amendments, claims 1-38 remain pending in the present application. Applicant request reconsideration in view of the foregoing amendments and following remarks.

35 U.S.C. § 102

With respect to the rejection of claims 1-23 and 28-38 as being anticipated by Desai et al., independent claims 1, 11, 19 and 28 have been amended.

Claim 1, as currently amendment, is directed to a method that includes, among other things, *identifying, from a number of different data effects, one that has a format of the data stream*. The data effect identified from a number of different data effects as having the format of the data stream can thereafter be retrieved for insertion into the data stream.

Claim 11, as amended, is directed to a method that includes *identifying, from a number of different pre-stored audio effects, one that has a format of the audio stream*. The pre-stored audio effect identified from a number of different pre-stored audio effects as having the format of the audio stream can thereafter be retrieved for insertion into the audio stream.

Claim 19, as amended, is directed to a method that includes *identifying, from a number of different audio effects, one that has a format of the audio stream*. The audio effect identified from a number of different audio effects as having the format of the audio stream can thereafter be retrieved for insertion into the audio stream

Claim 28, as amended, is directed to an apparatus having a processor for *identifying, from a number of different data effects, one that has a format of the data stream*. The data effect identified from a number of different data effects as having the format of the data stream can thereafter be retrieved.

Support for these amendments can be found on page 10, lines 19-22, of the present application.

In contrast, Applicant notes that Desai et al. neither teach nor disclose a method or an apparatus that can identify, from a number of different data effects (e.g., audio effects), one that has the format of the data stream (e.g., audio stream), and subsequently select/retrieve the data effect based on its similar format to that of the original data stream. The Examiner, on page 2 of the Office Action, pointed out that Desai et al. teach, in col. 2 (lines 28-30), that “the attribute of the additional data is determined whether it is the same as the original.” However, a review of col. 2 (lines 28-30) in Desai et al. provides the following: “the inserted data may possess one or more attributes which differ from the original data stream.”

If the Examiner may note, nowhere within this description in Desai et al. is there any teaching, explicitly or inherently, of whether the data to be inserted is (a) identified from number of different data to be inserted, and (b) subsequently selected/retrieved based on the similarity of its format to that of the original data stream. Desai et al. teach insertion of a commercial into a movie. Desai et al. is silent on whether there are multiple formats of the same commercial from which the commercial to be inserted can be identified. Moreover, Desai et al. is silent on whether the commercial to be inserted is retrieved from that pool based on its similar format to that of the data stream. Both of these, Applicant submits, are set forth in present claims 1, 11, 19 and 28.

Since Desai et al. fail to teach certain elements set forth in claims 1, 11, 19 and 28, Applicant submits that these claims, as amended, are not anticipated by Desai et al. In addition, since claims 2-10 depend from claim 1, claims 12-18 depend from claim 11, claims 20-23 depend from claim 19, and claims 29-38 depend from claim 28, it follows that these dependent claims are also not anticipated by Desai et al.

New Claims

New claims 39-42 have been added to further define certain novel features of the method and apparatus of the present invention.

Independent claim 39 is directed to a method for generating a data signal. The method recites, among other things, disposing of frames displaced by the data effect, similar to that recited in allowable independent claim 24.

Independent claims 40 and 41 are directed to a method for generating an audio signal and a video signal, respectively. Each of claims 40 and 41 recites, disposing of frames displaced by the audio effect, similar to the recited in allowable independent claim 24.

Independent claim 42 is directed to an apparatus for generating a data signal. Claim 42 recites, among other things, a process for disposing frames displaced by the data effect, similar to that recited in allowable independent claim 24.

Moreover, Desai et al., as the Examiner has noted, do not teach disposing of the displaced frames.

Accordingly, new claims 39-42 are not anticipated by Desai et al.

Conclusion

In view of the foregoing amendments and remarks, Applicant submits that the pending claims clearly and distinctly set forth the subject matter of the present invention, and are not anticipated by Desai et al.

Accordingly, Applicant submits that the claims are now in condition for allowance. Withdrawal of the pending rejections, and early and favorable reconsideration are respectfully solicited. In the event that a telephone conversation would further prosecute and/or expedite allowance, the Examiner is invited to contact the undersigned at (617) 310-6000.

Applicant does not believe that any extension or additional fee is required in connection with this Response. However, should any extension or fee be required, Applicant hereby petitions for same and requests that the extension fee and any other fee required for timely consideration of this application be charged to Deposit Account No. 50-2678.

Respectfully submitted,



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